AMENDMENTS TO THE CLAIMS

Claim 1 (currently amended): A horizontal packaging machine for making fluid-tight packages equipped with a zip closure, the machine comprising:

at least one unit for unwinding a film of synthetic material for packaging a series of products;

at least one unit for unreeling a pair of tapes to form the zip closure;

a shaping tunnel located downstream of the film unreeling unit;

a sealing unit located downstream of the shaping tunnel;

a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit, wherein the power-driven film feed roller is downstream of the sealing unit, wherein the location of the power-driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed and wherein the power-driven film feed roller has on its surface a series of jaws for transversely sealing and separating the packages.

Claim 2 (canceled)

Claim 3 (previously presented): A machine according to claim 1, further comprising a cutting device, located upstream of the sealing unit and designed to cut the zip tape in order to obtain portions of film without zip tape on .

Claim 4 (previously presented): A machine according to claim 1, wherein the jaws have cutting edges.

Claim 5 (currently amended): A horizontal packaging machine for making fluid-tight packages equipped with a zip closure, the machine comprising:

at least one unit for unwinding a film of synthetic material for packaging a series of products;

at least one unit for unreeling a pair of tapes to form the zip closure;

a shaping tunnel located downstream of the film unreeling unit;

a sealing unit located downstream of the shaping tunnel;

a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit, wherein the power driven feed roller is downstream of the sealing unit wherein the location of the power-driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed ; and

a pair of opposite platforms, one on each side of the forward moving film and zip tapes, each platform being equipped with two jaws designed to make a first continuous seal along the outside of the joined edges of the film and a second seal along the inside in order to attach the zip tape to the film edges.

Claim 6 (previously presented): A machine according to claim 5, further comprising free turning guide rollers for guiding the film into the sealing unit.

Claim 7 (previously presented): A machine according to claim 5, wherein one pair of jaws feature a longitudinal groove which accommodates the zip tape while the seal is being made.

Claim 8 (previously presented): A machine according to claim 1, further comprising, close to the at least one unit for unwinding the zip tape, a pair of unwinding rollers driven by a servomotor.

Claim 9 (previously presented): A machine according to claim 1, further comprising, downstream of the power-driven film feed roller, a device for collecting and feeding out the packages.

Claim 10 (previously presented): A machine according to claim 1, further comprising two process lines placed side by side.

Claim 11 (previously presented): A horizontal packaging machine for making fluid-tight packages equipped with a zip closure, the machine comprising:

a first unreeling unit to unwind a film of synthetic material that is used for packaging a plurality of products, the film of synthetic material being fed into a shaping tunnel located downstream of the first unreeling unit;

a second unreeling unit to unwind a zip tape, the zip tape being fed into the shaping tunnel in order to seal the zip tape to the film;

a upper platform located on the top side of the film of synthetic material and zip tape, the upper platform having an upper set of jaws,

a lower platform located on the bottom side of the film of synthetic material and zip tape, the bottom platform having a bottom set of jaws, wherein the bottom set of jaws are pressed against the upper set of jaws so as to make a first continuous longitudinal seal along the outside of the joined edges of the film and a second longitudinal seal along the inside in order to attach the zip tape to the film edges; and

a power-driven film feed roller designed to apply a uniform pulling force on the film; the power-driven film feed roller having on its outer surface sealing and cutting jaws that transversally seal and separate the packages, the sealing jaws being spaced at equal angular intervals.

Claim 12 (withdrawn): A method for to make fluid-tight packages equipped with a zip closure, comprising:

feeding a film of synthetic material mounted on a first unreeling unit into a shaping tunnel located downstream of the first unreeling unit;

feeding a zip tape mounted on a second unreeling unit into the into the shaping tunnel in order to seal the zip tape to the film;

making a first continuous longitudinal seal along the outside of the joined edges of the film by compressing pair of opposing jaws against each other while the film is in between the jaws;

making a second longitudinal seal along the inside in order to attach the zip tape to the film edges, the second longitudinal seal being made by compressing the pair of opposing jaws against each other while the film and the zip tape are in between the jaws;

pulling the film so as to create a uniform pulling force, the film being pulled by a power-driven film feed roller that has on its outer surface sealing and cutting jaws spaced at equal angular intervals;

transversally sealing the film between the packages; and

transversally separating the packages by transversally cutting the sealed film between the packages.

Claim 13 (new): A horizontal packaging machine for making fluid-tight packages equipped with a zip closure, the machine comprising:

at least one unit for unwinding a film of synthetic material for packaging a series of products;

at least one unit for unreeling a pair of tapes to form the zip closure;

a shaping tunnel located downstream of the film unreeling unit;

a sealing unit located downstream of the shaping tunnel wherein the sealing unit includes free turning guide rollers for guiding the film into the sealing unit;

a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit, wherein the power-driven film feed roller is downstream of the sealing unit, and wherein the power-driven film feed roller has on its surface a series of jaws for transversely sealing and separating the packages.

RESPONSE TO EXAMINER'S REJECTIONS/OBJECTIONS

The office action issued by the Examiner and the citations referred to in the office action have been carefully considered.

Claim 1 and 5 are amended with this response.

Claim 13 is newly added.

Restriction

The Examiner has restricted Claims 11 and 12 as being a newly added method claim. However Claim 11 is not a method claim and should not be restricted. Moreover, newly added Claim 13 is not a method claim. Furthermore, Claims 11 and 13 are directed to an invention distinct from and independent of the invention previously claimed. For example, Claims 11 and 13 both recite elements, although in a different combination and in number, which are previously claimed. Thus, Applicant respectfully requests that the Examiner reinstate Claim 11.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected Claims 1 and 3-10 under 35 U.S.C. § 103(a) as being unpatentable over Runge (U.S. Patent No. 5,247,781) in view of Grevich et al (U.S. Patent No. 4,305,240). Examiner asserts that Runge discloses all the elements of Claims 1 and 3-10 except for the that Runge does not disclose a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages. Accordingly, Examiner asserts that Grevich discloses a packaging machine comprising a power-driven film feed roller similar to the present application and that it would have been obvious to one skilled in the art to combine the teachings of Runge with Grunge to find the present invention.

(i) The Runge and Grevich references when combined do not teach all the elements of the independent Claims

The Runge and Grevich references when combined do not teach all the elements of the newly amended independent Claims 1 , 5, 11, and 13 from which dependent Claims 2-4, and 6-

10 depend from. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). See also, MPEP 2143.03. Specifically, the Runge and Grevich references when combined do not teach a horizontal packaging machine for making fluid-tight packages equipped with a zip closure, having a power-driven film feed roller designed to apply a **uniform pulling force** on the film which is unwound and fed into the sealing unit. In particular, the references don't teach a power driven feed roller which is located downstream from the sealing unit so that its location and uniform pulling prevent the film from being uneven while sealed. Specifically, the power-driven feed roller of Grevich is not the same element as the roller disclosed by the present application. The roller in Grevich does not apply a uniform pulling force. First, the roller in Grevich uses two jaws to grip the wrapper (see column 11, lines 8-50) and one of the jaws (35) that grips the wrapper is moving and swingable (see column 12, lines 40-56). Second, Grevich is concerned with a coordinated movement of a tubular wrapper. Grevich refers to a variable speed that is coordinated between a driving sprocket, a chain and a rotor. Column 8, Line 33. Thus, because the speed of the wrapper is coordinated with the rotor, the rotor cannot apply a uniform pulling force. Again, the wrapper is not constantly gripped and thus there is no uniform pulling force. Simply put, the roller in Grevich is not the same element as the element of the present application. Accordingly, Grevich does not teach the claimed roller.

Furthermore, with respect to Claim 13, neither Grevich or Runge teaches free turning guide rollers (30) for guiding the film which are a part of the sealing unit (20) as depicted in Figure 1 of the present application. Thus, Applicant respectfully submits that Examiner cannot establish a *prima facie* case of obviousness because the references when combined do not teach all the elements of newly amended independent Claims 1 , 5, 11, and 13.

Furthermore, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending there from is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). See also, MPEP 2143.03. Claims 2-4, and 6-10 are dependent from Claims 1 , 5, 11, and 13. Therefore, because Claims 1 , 5, 11, and 13 are not obvious, Claims 3-4, and 6-10 are not obvious over Runge in view of Grevich.

(ii) Both the Runge and Grevich reference lack the suggestion or motivation to combine references

Not only do the references cited above fail to teach the elements of the present application, but the references lack the suggestion or motivation to combine references. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP 2403.01.

Further, requiring a motivation to combine prevents evaluation of the invention part by part. Without this important requirement, an obviousness assessment might successfully break an invention into its component parts, then find a prior art reference corresponding to each component. This line of reasoning would import hindsight into the obviousness determination by using the invention as a roadmap to find its prior art components. Further, this improper method would discount the value of combining various existing features or principles in a new way to achieve a new result - often the essence of invention. *Princeton Biochemicals Inc. v. Beckman Coulter Inc.*, (Fed. Cir. 1995) 70:206.

(a) No explicit suggestion or motivation to combine references

As stated above, motivation must be found either explicitly and/or implicitly. With respect to an explicit showing, Applicant respectfully submits that Examiner has failed to show where or how the Grevich or Runge references contain a suggestion or motivation to combine the references. Applicant cannot find a suggestion or teaching in the claims or specification of Runge to replace the sealing bars in Runge with a power-driven feed film roller that applies a uniform pulling force on the film. Therefore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990).

(a) No implicit suggestion or motivation to combine references

Furthermore, the Grevich and Runge references lack an implicit suggestion or motivation to combine references. The MPEP states that, "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000). See also, MPEP 2403.01.

In the present case, the nature of the problem to be solved as a whole *does not* suggest to those of ordinary skill in the art to combine the Grevich and Runge references. Although both references teach a packaging machine, neither reference suggests that including a roller which is designed to apply a uniform pulling force to prevent film from becoming uneven or wrinkled. Therefore, they cannot provide an implicit motivation or suggestion to combine these references. Thus, they cannot render the elements of independent Claims 1, 5, 11, and 13. Accordingly, Claims 3-4, and 6-10 are not obvious. Thus, Applicant respectfully requests that the Examiner also withdraw these rejections as to Claims 1 and 3-10.